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From: Chuck Gengler
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commission
Date: 3119/03 10:50AM
Subject: a good article about FCC

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<http://www.techcentralstation.com/1051/techwrapper.jsp?PID=1051-250&CID=1051-031903> Federal Communications Commission
 Office of the Secretary

I read this article and just had to send it to you all. How could you eliminate linesharing. or access to the network if RBOCS install any upgrades?

The final order is not yet written, you have an opportunity to fix an error in judgement that has been noticed by virtually every journalist to seriously write on the topic. Rewrite your linesharing decision before the courts do. It is far better to admit and remedy an error than let it stand because of pride.

The Certainty Principle
 By Duane D. Freese

Does promoting stock market certainty trump principle and common sense when it comes to public policy?

It's a silly question in many ways. Stock markets deal with uncertainty constantly. Those who invest know there is no "sure thing." The best investors can hope for isn't certainty, but consistency in government rulemaking.

Yet, the regional Bell operating companies and their supporters, both in Congress and among analysts, have trumpeted certainty as the be all and end all of policy making at the Federal Communications Commission.

In particular, they say that the FCCs divided decision in February to continue to let state regulatory commissions determine the elements and prices the monopoly Bells must provide competitorsto lease their networks created uncertainty in the market, dragging down stock prices and thwarting telecom investment.

"Was it a good decision?" asked Rep. Fred Upton, R-Mich., at a House Energy and Commerce Committee hearing with FCC commissioners a week afterward. "Hello Washington, this is Wall Street calling, the answer is no.

"Clearly the reaction from Wall Street the last few days should convince us that the FCCs decision has created confusion and concern."

Commerce Committee Chairman Billy Tauzin, R-La., was equally harsh at the hearing, though possibly a little confusing.

Last June, as Jennifer Lee of The New York Times reported, Tauzin sent a letter to FCC Chairman Michael Powell telling the commission that "uniform, national rules do not accurately reflect the state of competition and unique economic characteristics of individual markets."

Further, Tauzin pushed for legislation last year, the so-called Tauzin-Dingell bill, that called for releasing the Bells from sharing elements it put in for the deployment of broadband.

But Tauzin refused to take "yes" from the FCC for an answer. The FCC granted broad freedoms to the Bells - far too broad - for broadband and it let the state regulatory commissions, well situated to monitor

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"the state of competition and unique economic characteristics of individual markets." Yet, Tauzin complained the rulings were "a devastating blow to an already sick telecom sector."

TCS Host James Glassman has pointed out the exaggeration in the complaints about market losses. He noted that the losses in market cap for the Bells were less than the gains they'd gotten in January when FCC Chairman Michael Powell was pumping the false notion that the Bells would be totally freed from any oversight.

Thus, the Bells' market caps, as it turned out, were higher than at the start of the year. And one additional thing that may have hurt them, as Glassman wrote, was their own poor-mouthing the FCC decision, by saying that they would still not invest in broadband despite having gotten the "new wires, new rules" that Verizon senior vice president Tom Tauke said was needed in a speech in 2001.

As Broadband Business Report noted: "(I)t's starting to look as though (FCC Commissioner Kevin) Martin's true genius (in giving the Bells what they had demanded on broadband) was in calling the Bells' bluff. They kept saying 'we'll deploy broadband when we get X,' so he gave them X, and now they're claiming they need Y. Whether he meant to or not, Martin has basically tricked the Bell emperors into revealing their nakedness. These statements are yet further evidence that they have no intention of getting serious about broadband and never did."

The bad news is that the FCC's elimination of line-sharing has done serious damage to Covad Communications, which was serious about rolling out broadband over the local loop. Tauzin and Upton shed no tears for its **loss** of 42 percent in a day from its market cap.

In fact, the worry about capital markets isn't for the problems short-term fluctuations may create for established companies with huge capital resources. **It's** what it does to upstart companies such as Covad, the real innovators and promoters of technology. Tauzin with his legislative maneuvering over the last two years on behalf of the Bells helped kill an awful lot of investment in them.

Meanwhile, everybody on the Bells' side neglects the history that led up to the FCC rulemaking.

The Bells in 1996 made a deal. They wanted to cease being simple local telephone companies. So they agreed to open up their local loops to competitors in return for getting into long distance and other services.

Furthermore, in return for being allowed to merge their local networks - there were seven Bells in 1996; there are only four today - they promised the same thing. They would open their local networks to competitors.

And finally, the Bells also promised states, such as Pennsylvania and Ohio, that in return for rate relief, they'd expand their broadband services.

On every promise, the Bells have reneged. They have preferred to accept fines - \$2 billion worth - than do what they promised.

And the response from their apologists is to act like France does toward Saddam Hussein - accept the lies and dishonesty. Indeed, maybe worse than France. At least France wants to maintain an inspection regime, Bell supporters want to remove the last vestiges of regulatory oversight at the state level.

All the FCC decision really did was to allow state regulatory commissions to do what they've been doing - overseeing fair access to the Bell network, so as to determine, as BusinessWeek pointed out, "if competition is well-rooted enough to permit deregulation."

An entrenched monopoly in an arena in which the costs of setting up competing networks is as large as that for the phone network - including getting around onerous local regulations for siting equipment and laying lines - if deregulated before competition is rooted, can easily squash it, exacting monopoly rents

from everyone

That's what it tried to do with the Internet. something Bell supporters seem to forget. The Bells wanted to charge per minute connection charges to access the Internet. That would have eliminated the single pricing options that have led to the rapid penetration of the Internet in the United States, compared with Europe and elsewhere in the world.

To be sure, a totally deregulated monopoly would produce market certainty, for awhile, much as walking away from confrontation in Iraq might.

Many analysts have pointed out that the confrontation with Iraq creates short-term market uncertainties.

"The heightening of geopolitical tensions has only added to the marked uncertainties that have piled up over the past three years, creating formidable barriers to new investment and thus to a resumption of vigorous expansion of overall economic activity," Federal Reserve Board Chairman Alan Greenspan told Congress recently.

Robert Reich, former Labor Secretary during the Clinton administration, recited a whole list of troubling "ifs" for the economy and stock market should the United States go into Iraq.

Is such uncertainty a good reason to walk away from Iraq and let Saddam Hussein develop his weapons of mass destruction?

Sane people realize that the "short-term" market certainty created by appeasing a dictator would lead to long-term dangers to this nation's security and economy.

Indeed, whether dismantling dictatorship or a monopoly, there are likely to be short-term costs. The question for government policy - foreign and domestic - is whether it makes sense in the long run.

The FCC's decision to let competition take root in local telephone markets makes such sense.